

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for Approval of Economic Development Rate for 2013-2017 (U39E).	Application 12-03-001 (Filed March 1, 2012)
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**DECISION GRANTING COMPENSATION CLAIM TO THE GREENLINING INSTITUTE FOR SUBSTANTIAL CONTRIBUTION TO DECISION 13-10-019**

<b>Claimant: The Greenlining Institute (Greenlining)</b>	For contribution to D.13-10-019
<b>Claimed: \$52,078.00</b>	<b>Awarded: \$48,847.25</b> (reduced 6.2%)
<b>Assigned Commissioner:</b> Michael R. Peevey	<b>Assigned ALJ:</b> ALJ Division <sup>1</sup>

**PART I: PROCEDURAL ISSUES**

<b>A. Brief Description of Decision:</b>	The decision grants authority to Pacific Gas and Electric Company (PG&E) to offer both a Standard and an Enhanced Economic Development Rate (EDR) tariffed discount subject to certain ratepayer protections.
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**B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	May 17, 2012	Verified
2. Other Specified Date for NOI:		
3. Date NOI Filed:	June 7, 2012	Verified
4. Was the NOI timely filed?		Yes

<sup>1</sup> This proceeding was originally assigned to ALJ Richard Clark.

<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	R.10-02-005	Verified
6. Date of ALJ ruling:	March 29, 2010	Verified
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes
<b>Showing of “significant financial hardship” (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	A.10-11-015	Verified
10. Date of ALJ ruling:	June 3, 2011	Verified
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.13-10-019	Verified
14. Date of Issuance of Final Order or Decision:	Oct. 9, 2013	Verified
15. File date of compensation request:	Nov. 6, 2013	Verified
16. Was the request for compensation timely?		Yes

## PART II: SUBSTANTIAL CONTRIBUTION

A. In the fields below, describe in a concise manner Claimant’s contribution to the final decision (*see* § 1802(i), § 1803(a) & D.98-04-059).

<b>Contribution</b>	<b>Specific References to Claimant’s Presentations and to Decision</b>	<b>Showing Accepted by CPUC</b>
1. Greenlining urged the Commission to require that customers that received the benefit of an EDR discount be required to provide data on the number of jobs created and retained and the salary level of these jobs, in order to measure the program’s success at economic development. The current EDR program has no means of measuring economic development (i.e. indirect benefits) This job tracking requirement was unprecedented for EDR	Protest of Greenlining, filed Apr. 4, 2012 (Protest) at 3-5. Prepared Testimony of Enrique Gallardo, served Aug. 24, 2012, (Prepared Testimony) at 3-4. Rebuttal Testimony of Enrique Gallardo, served Nov. 2, 2012, (Rebuttal Testimony) at 1-4. Opening Brief of Greenlining, filed Jan. 4, 2013 (Opening Brief) at 12-17. Reply Brief of Greenlining, filed Jan. 18, 2013 (Reply Brief) at 2-8. Comments of Greenlining on the Proposed Decision Authorizing PG&E to Offer EDR Tariff Option, filed Aug. 29, 2013 (Comments on PD)	Yes

<p>programs in California. Greenlining recommends that job data be compiled independently for the Standard EDR and the Enhanced EDR, in order to track the success of each program.</p>	<p>at 2-6. Oral Presentation at All-Party Meeting, Sep. 17, 2013 (“All Party”).</p> <p>D.13-10-019 at 36-37 and FOF 27 (requiring job and salary data of EDR customers – <i>see also</i> D.13-10-019, Appendix A). The job and salary data requirement is modeled after one of the alternatives provided by Greenlining in its Brief at 13-14 and n.28. <i>See also</i> D.13-10-019 at 20 and FOF 24 (current EDR program has no means of measuring indirect benefits, i.e. economic development)</p>	
<p>2. Areas of high unemployment should receive an Enhanced EDR program, as long as positive contribution to margin still exists.</p> <p>Cities, as well as counties, with high unemployment should qualify for the Enhanced EDR.</p>	<p>Protest at 5.</p> <p>Opening Brief at 9-10.</p> <p>Second Reply Brief of Greenlining, filed February 15, 2013 at 1-3.</p> <p>Comments on PD at 8-9.</p> <p>D.13-10-019, pp. 26-27 and FOF 28.</p>	<p>Yes, but duplicative of other parties. Other parties suggested the use of Enhanced EDR programs as well, including the City of Oakland.</p>
<p>3. Greenlining advocates that public purpose charges and other non-bypassable charges (NBCs) must be fully paid in order to find that a customer had a positive contribution to margin.</p>	<p>Protest at 3.</p> <p>Opening Brief at 10.</p> <p>Reply Brief at 1-2</p> <p>Comments on PD at 9</p> <p>All-Party</p> <p>D.13-10-019 at 29 and FOF 13.</p>	<p>Yes</p>
<p>4. A program cap should be retained, as there is no data showing how large the EDR program could grow if it is unlimited.</p> <p>Retention of a 200 MW program cap will allow the Commission to measure the success of the EDR in developing jobs before the program is expanded.</p>	<p>Protest at 2-3.</p> <p>Prepared Testimony at 2-3.</p> <p>Opening Brief at 10-11.</p> <p>Comments on PD at 7-8.</p> <p>D.13-10-019 at 30-31, FOF 18</p>	<p>Yes, but duplicative of arguments made by DRA, TURN and others.</p>
<p>5. Small businesses are excluded from the benefits of</p>	<p>Protest at 5-6.</p> <p>Opening Brief at 3-4.</p>	<p>Yes</p>

the EDR program.		
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**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?<sup>2</sup></b>	yes	Verified
<b>b. Were there other parties to the proceeding with positions similar to yours?</b>	yes	Verified
<b>c. If so, provide name of other parties:</b> National Asian American Coalition, Black Economic Council, Latino Business Chamber of Greater Los Angeles (“Joint Parties”)		Verified
<b>d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</b>  Greenlining’s main contribution to this proceeding was advocating for job reporting requirements; Greenlining was the initial party and largely the only party to advocate for this position.  Regarding the central issue of achieving a positive contribution to margin, Greenlining did not expend resources discussing this issue, relying on ORA and other parties to ensure non-participating ratepayers were protected. Instead, Greenlining focused its resources on advocating for job reporting requirements, as this was a position that through the initial steps of the proceeding, no other party advocated. However, midway through the proceeding, another party, the Joint Parties did begin to address job reporting issues.  On Apr. 4, 2012, Greenlining filed its Protest, protesting the EDR Application because, among other reasons 1) there was no measurement of jobs created by the program and 2) small business could not benefit from the discount.  Subsequently, on June 25, 2012, Joint Parties filed a Motion for Party Status, identifying two areas of interest: 1) the discrimination of the EDR against small businesses and 2) the EDR program is of limited benefit due to “tax-hopping’ and intra-state competition. (See pp. 3-4) Greenlining chose for its continuing work to not focus on the issue of EDR exclusion of small businesses. Rather, Greenlining’s main focus would be on advocating for job data from EDR customers, which no other party to the proceeding was advocating.  Greenlining filed its Prepared Testimony on Aug. 24, 2012, describing the need for measurement of the purported job benefits of the EDR program and urging the Commission to require the reporting of this data. Subsequently, in		Verified, but still duplicative of other parties.

<sup>2</sup> The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

<p>Rebuttal Testimony first filed on Oct. 19, 2012, Joint Parties supported Greenlining's position on job and salary reporting. (<i>See</i> p. 4) Joint Parties added their recommendation, that job data be reported for each ethnic group. (<i>See</i> p. 4)</p> <p>Greenlining's position was distinct from Joint Parties' position. Greenlining sought job and salary reporting requirements, but not granulated by ethnic group.</p>	
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### **PART III: REASONABLENESS OF REQUESTED COMPENSATION**

#### **A. General Claim of Reasonableness (§§ 1801 & 1806):**

<p><b>a. Intervenor's Claim of Cost Reasonableness</b></p> <p>Greenlining's main contribution to this proceeding, accounting for the majority of its hours, was to advocate for job reporting requirements from EDR customers. Greenlining alone introduced a model for reporting job and salary data from EDR customers. (<i>See</i> Rebuttal Testimony at 3-4, Opening Brief, pp. 13-14) that the Final Decision mirrored. <i>See</i> D.13-10-019, pp. 36-37 &amp; FOF 27.</p> <p>A large justification for the EDR program is that it creates jobs. Greenlining ensured that the Commission can adequately measure the number of jobs (and the salary level of the jobs). Greenlining's contributions provide a measure of accountability of the actual job benefits created by a program that provides millions of dollars of discounts to large businesses. Without Greenlining's contribution, there would be no way of knowing how much economic development the utilities and ratepayers were actually supporting with the EDR discount. The Commission can now improve the EDR program if it is shown that it does not create jobs. This contribution is much more valuable than the small amount of Greenlining's contribution.</p> <p>Greenlining also contributed in other issue areas, such as ensuring that NBCs are included in the calculation of contribution to margin, in retaining a total program participation cap, and in supporting an additional discount for cities and counties with high unemployment. The Final Decision adopted Greenlining's positions here. Thus, Greenlining's contributions helped fashion a successful EDR program (whose benefits could be measured by job data). Greenlining's contributions are more valuable than the small award sought for this work on various issues.</p> <p>The only work Greenlining performed that is not reflected in the Final Decision was the small amount of work on pointing out that small businesses are excluded from the EDR.</p>	<p><b>CPUC Verified</b></p> <hr/> <p>Verified</p>
<p><b>b. Reasonableness of Hours Claimed.</b></p> <p>Greenlining staffed this proceeding by one experienced attorney</p>	

<p>(Enrique Gallardo), who compiled the great majority of the hours in the proceeding. As Mr. Gallardo has much experience in Commission proceedings, his work was very efficient. He compiled a number of hours similar to what was estimated in the NOI.</p> <p>Mr. Gallardo's work was complemented by a new attorney (Noemí Gallardo, no relation) in very limited situations. He did not compile many hours and has a small hourly rate. In our NOI, Greenlining anticipated some supplemental work by Mr. Gallardo's supervisor, Stephanie Chen, Senior Legal Counsel. However, rather than having another senior attorney provide complementary, backup work, Greenlining found it more efficient to utilize a new attorney in this role. Thus, we provided savings here.</p> <p>Greenlining also focused on the issues of greatest importance to our interests. Although the fundamental issue of protecting non-participating (such as residential) ratepayers from being overburdened by the EDR was important to us, we did not work on this issue, allowing other consumer intervenors such as ORA to work on the central issue of ensuring that EDR participants provide a contribution to margin.</p>	
<p><b>c. Allocation of Hours by Issue</b></p> <p>A. Job Reporting: Proposed that the Commission should require Economic Development Rate customers to report job and salary data – 39%</p> <p>B. Non-Bypassable Charges (NBCs): Supports requirement that all NBCs be paid prior to finding positive contribution to margin – 15%</p> <p>C. Program Cap: Support retention of program cap; concerns about magnitude of unlimited program -- 18%</p> <p>A. Small Businesses: Raise concerns about exclusion of small business from EDR -- 3%</p> <p>E. Enhanced EDR for areas of high unemployment – 15%</p> <p>F. General/Procedural – 10%</p>	Verified

**B. Specific Claim:\***

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Enrique	2012	104.4	\$370	D.12-04-043	\$38,628	96.225 <sup>l</sup>	\$380.00 <sup>3</sup>	\$36,565.50

<sup>3</sup> Approved in D. 13-10-018.

Gallardo						A]		
Enrique Gallardo	2013	26.9	\$380	Approx. 2% COLA increase	\$10,222	24.05 <sup>[A]</sup>	\$390.00 <sup>4</sup>	\$9,379.50
Noemí Gallardo	2012	7	\$130	See Attachment A	\$910	4.025 <sup>[A]</sup>	\$130.00 <sup>[B]</sup> <sub>j</sub>	\$523.25
Subtotal: \$49,760.00						Subtotal: \$46,468.25		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Enrique Gallardo	2013	12.2	\$190	Half of 2013 rate claimed above	\$2,318	12.2	\$195.00	\$2,379.00
Subtotal: \$2,318.00						Subtotal: \$2,379.00		
TOTAL REQUEST: \$52,078						TOTAL AWARD: \$48,847.25		
<p>*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant’s records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Reasonable claim preparation time typically compensated at ½ of preparer’s normal hourly rate.</p>								
Attorney		Date Admitted to CA BAR <sup>5</sup>		Member Number		Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation		
Enrique Gallardo		December 09, 1997		191670		No		

**C. Attachments Documenting Specific Claim and Comments on Part III:**

<b>Attachment or Comment #</b>	<b>Description/Comment</b>
<b>1</b>	<b>Certificate of Service</b>
<b>A</b>	<b>Basis for Claimed Rates</b>
<b>B</b>	<b>Allocation of Time by Issue</b>
<b>C</b>	<b>Time Recording for the Greenlining Institute's Attorneys</b>

<sup>4</sup> Approved in D. 14-020-036.

<sup>5</sup> This information may be obtained at: <http://www.calbar.ca.gov/>.





**D. CPUC Disallowances and Adjustments:**

Item	Reason
A	As discussed above, some of the arguments presented by Greenlining were duplicative of those presented by other parties. For Issues C and E, the Commission reduces The Greenlining Institute's hours by 25%. Additionally, the Commission reduces N. Gallardo's hours by 2.7 for meetings with E. Gallardo that both charged time for.
B	The Greenlining Institute requests a rate of \$130.00 per hour for work done by N. Gallardo in the year 2012. Gallardo was a legal fellow for The Greenlining Institute, working after graduation from law school but prior to bar admission. The requested rate is the lowest possible for attorneys in 2012. We find this rate to be reasonable and commensurate with the legal fellows work performed by Gallardo.

**PART IV: OPPOSITIONS AND COMMENTS**

<b>A. Opposition: Did any party oppose the Claim?</b>	No
<b>B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(2)(6))?</b>	Yes

**FINDINGS OF FACT**

1. The Greenlining Institute has made a substantial contribution to Decision (D.) 13-10-019.
2. The requested hourly rates for The Greenlining Institute's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$48,847.25.

**CONCLUSION OF LAW**

1. The Claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

**ORDER**

1. The Greenlining Institute is awarded \$48,847.25.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay The Greenlining Institute the total award. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning January 20, 2014, the 75<sup>th</sup> day after the filing of The Greenlining Institute's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b>	No
<b>Contribution Decision(s):</b>	D1310019		
<b>Proceeding(s):</b>	A1203001		
<b>Author:</b>	ALJ Division		
<b>Payer(s):</b>	Pacific Gas and Electric Company		

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
The Greenlining Institute	11/06/13	\$52,078.00	\$48,847.25	N/A	N/A

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Enrique	Gallardo	Attorney	The Greenlining Institute	\$370.00	2012	\$380.00
Enrique	Gallardo	Attorney	The Greenlining Institute	\$380.00	2013	\$390.00
Noemí	Gallardo	Legal Fellow	The Greenlining Institute	\$130.00	2012	\$130.00

**(END OF APPENDIX)**